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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,331	02/27/2004	Brian Levine	LOT920040014US1 (045)	9399
46321 7590 05/25/2010 CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP STEVEN M. GREENBERG 950 PENINSULA CORPORATE CIRCLE SUITE 2022 BOCA RATON, FL 33487				
EXAMINER				
DICKERSON, TIFFANY B				
ART UNIT		PAPER NUMBER		
3623				
MAIL DATE		DELIVERY MODE		
05/25/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/789,331

Applicant(s)

LEVINE, BRIAN

Examiner

Tiffany B. Dickinson

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. In view of the appeal brief filed February 12, 2010, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Beth V. Boswell/

Supervisory Patent Examiner, Art Unit 3623

2. The following is a non-final office action. In response to Examiner's communication of 8/5/2009, Applicant, 12/07/09, on filed a notice of appeal, and on 02/12/2010, filed an appeal brief. In light of prosecution having been reopened, claims 1-13 are pending in this application and have been rejected below.
3. In the response dated 05/04/2009, the applicant failed to timely traverse the officially noticed fact that at the time of the invention, iCalendar was a standard file format for calendar data exchange. Therefore, the officially noticed fact is hereby regarded as applicant's admitted prior art (AAPA).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-7 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matousek (US 7,440,961) in view of Hall et al., US 2003/00614333.

Concerning claims 1 and 9, Matousek discloses a method for applying ordered modifications to recurring event instances, the method comprising the steps of:

identifying an event exception in a calendaring system executing in memory by a processor of a computer, the event exception corresponding to a separately defined and separately stored recurring event instance in the calendaring system (Matousek, col. 7, lines 25-43, i.e., identifying the correct instance of a recurrence event and its instance identifier associated with the appropriate exception). Examiner clarifies that that the term "separately stored" is construed broadly since being stored separately may be applied in a very broad way such as data being stored in different types of files or systems, devices, databases, or as narrowly as data being contained in separate tables or cells.

Matousek fails to disclose modifying at least one property of said recurring event instance based upon said separately stored event exception. However, Hall, [37], discloses wherein the expander is used to modify records.

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the method of modifying at least one property of said recurring event instance, as taught by Hall, into the system of Matousek. Under *KSR International Co.*, "...any need or problem known in the field of endeavor at the time of the invention and addressed by the patent [or application at issue] can provide a reason for combining the elements in the manner claimed." *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, ___, 82 USPQ2d 1385, 1397 (2007). Thus a reference in a field different from that of applicant's endeavor may be reasonably

pertinent if it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his or her invention as a whole. At the time of the subject invention, there existed a known problem in the art of modifying recurring event instances while also minimizing space and keeping accurate track of scheduling data (as discussed Matousek's Background of the Invention. The invention of Hall is directed to solving the same type of problem.

Concerning claims 2 and 10, *Matousek in view of Hall* discloses the method of claim 1, further comprising the steps of:

further identifying additional event exceptions corresponding to said recurring event instance (*Hall*, [38], wherein the retractor identifies exceptions in discrete records to create a general exception) and,

for each one of said further identified additional event exceptions, further modifying at least one property of said recurring event instance based upon said one of said further identified additional event exceptions (*Hall*, [38], wherein the identified exception adhere to prescribed modifications, e.g., retractor generates exceptions revealing the modification in time on the first Monday).

Concerning claims 3 and 11, *Matousek in view of Hall* discloses the method of claim 1, further comprising the step of repeating said identifying and modifying steps for additional ones of the recurring event instances (*Hall*, ¶ 0037, via expander and synch engine).

Concerning claims 4 and 12, *Matousek in view of Hall* discloses the method of claim 1, further comprising the steps of: further identifying event exceptions relating to said recurring

event instance which have become stale (*Hall*, ¶ 0052, i.e., deleting records if the status is new or unchanged, and the later record has been changed by an exception).

Concerning claims 5 and 13, *Matousek in view of Hall* discloses the method of claim 4, wherein said further identifying step comprises the step of further identifying event exceptions whose specified modifications to event properties in said recurring event instance have been obviated by modifications specified in subsequently defined event exceptions (*Hall*, ¶¶ 0038 and 0052).

Concerning claim 6 and 7, *Matousek in view of Hall* discloses a calendaring system comprising:

a computer with processor and memory (*Hall*, [29]);

a recurrence event expander disposed within a calendaring system (*Matousek*, Fig. 2, Ele. 208) executing in the memory by the processor of the computer, the expander being programmed to expand recurrence events into event instances based upon the properties specified within the recurrence events; and, (*Hall*, Fig. 8, Ele. 70); and,

a recurrence event modifier also disposed within the calendaring system and coupled to said recurrence event expander, the modifier modifying properties within the event instances based upon event exceptions defined for respective ones of the event instances and separately stored from the event instances. (*Hall*, Fig. 2, Ele. 24 connected to Ele. 20).

Concerning claim 7, *Matousek in view of Hall* discloses the system of claim 6, further comprising a modification rule reducer coupled to the recurrence event modifier, the modification rule reducer inspecting older ones of the event exceptions to detect stale event exceptions (Hall, [52], describing deleting old records).

7. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over *Matousek in view of Hall* and further in view of AAPA.

In the response dated 05/04/2009, the applicant failed to timely traverse the officially noticed fact that at the time of the invention, iCalendar was a standard file format for calendar data exchange. (See Dawson et al., RFC 2445, Internet Calendaring and Scheduling Core Object Specification (iCalendar), Nov. 1998, from http://delivery.acm.org/10.1145/rfc_fulltext/RFC2445/rfc2445.txt?key1=RFC2445&key2=6089654721&coll=GUIDE&dl=GUIDE&CFID=89289591&CFTOKEN=81188603. Therefore, the officially noticed fact is hereby regarded as applicant's admitted prior art.

One of ordinary skill in the art at would have found it obvious to implement a well known format such as iCalendar file formats in order to gain the commonly understood benefits of using widely compatible file types.. Prior art is not limited just to the references being applied, but includes the understanding of one of ordinary skill in the art. MPEP 2141(III). Therefore the invention as a whole would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tiphany B. Dickerson whose telephone number is (571)270-7048. The examiner can normally be reached on M-F 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571)272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tiphany B. Dickerson/
Examiner, Art Unit 3623

/Beth V. Boswell/

Supervisory Patent Examiner, Art Unit 3623